

KADG010006552026



Presented on : 24-02-2026
Registered on : 24-02-2026
Decided on : 13-03-2026
Duration : 0years, 0months, 19days.

**IN THE COURT OF
PRL DISTRICT AND SESSIONS JUDGE DAVANGERE
AT DAVANGERE,**

(Presided Over by SMT. VELA D.K.)

Crl.Misc./188/2026

PETITIONER/s : -

1: Manjunath K So Late Kallappa Nekar,
Age : 33 years, Agriculturist,
R/o Kokkanuru village, Harihar tq, Davangere Dist.

(By Sri. S.E.K., Advocate)

VERSUS

RESPONDENT:

State of Karnataka represented
by PSI, Malebennur Police Station,

(By Public Prosecutor, Davanagere)

ORDER ON PETITION FILED U.SEC.482 OF BNSS

1. The petitioner/ accused has filed the above petition under Sec.482 of BNSS seeking grant of anticipatory bail in the event of his arrest in respect of Crime No.35/2026 of Respondent-Police for the offence punishable under Sec.303(2) of BNS, 2023.

2. The grounds urged for grant of bail are as under :-

a) The petitioner is said to be innocent of the offence alleged and there is apprehension of his arrest by the respondent police and that he has been falsely implicated in the case. There is no prima facie material against the petitioner for the offence under Sec.303(2) of BNS.

b) The petitioner is said to be a permanent resident of the address mentioned in the cause title of the petition and owning movable and immovable properties. Hence there is no chance to flee away from justice.

c) The petitioner is the sole earning member of his family. He is no way concerned with the alleged crime. The allegations made in the complaint to be false and baseless. The petitioner has no criminal antecedents.

The alleged offences are not punishable with death or imprisonment for life.

d) The petitioner undertakes to abide by the conditions that may be imposed by the Court and also not to tamper the prosecution witnesses. Hence sought for grant of anticipatory bail.

3. The learned Public Prosecutor has filed objection to the above petition contending that the alleged offences are serious in nature. The accused is said to be indulged in theft of sand from the Govinahal village side, the road adjacent to channel and to have transported unauthorizedly, without any permit and thereby have caused loss to the State Exchequer. There is prima facie material against the accused. The offence under Sec.303(2) of BNS pertains to theft and punishable with imprisonment up to 3 years. The investigation is pending and there is need to arrest the accused and to enquire him about illegal transportation of sand. The I.O has to obtain report from the Geological Department about the seized sand, and at this stage the petitioner is not entitled for grant of anticipatory bail, as there is every possibility of absconding and causing impediment to the fair investigation and trial of the case, therefore has sought for rejection of the bail petition.

4. Heard learned counsel for the petitioner and learned Public Prosecutor for the Respondent. Perused the records.

5. On hearing the bail petition, the points that arise for consideration are : -

1) Whether the petitioner have made out grounds for grant of anticipatory bail vide under Sec.482 of B.N.S.S in Cr.No.35/2026 of Malebennur PS ?

2) What order ?

6. The Point No.1 is answered in the Affirmative, and point No.2 as per final order and for the following:-

REASONS

7. **Point No.1:** - As per FIR, Crime No.35/2026 has been registered by Respondent Police for the offence punishable under Sec.303(2) of BNS, 2023, on the complaint lodged by Girish Gowda. CPC, Malebennur PS. The place of crime is described as, by the side of channel, Malebennur town Harihara taluk. The name of the petitioner finds place in the FIR.

8. The gist of the complaint is that, as per direction of the PSI Malebennur PS on 14.02.2026 at 06.15 PM while the complainant along with other staff was on patrolling duty, received credible information about illegal transportation of sand by somebody. Accordingly, then the complainant and other staff PC No.479 and 479 went near the Malebennur channel and they found illegal transportation of sand in the tractor by somebody. On verification, there was no number plate to the tractor. On enquiry the driver told his name as Manjunath and it is found that he was not having any licence. The complainant came to know that, the accused was illegally transporting the sand. Therefore, the complainant seized the incriminating articles and sand and issued notice to the accused under sec.35(3) of BNSS. Accordingly the complainant registered the case against the accused.

Learned counsel for the petitioner has produced certified copies of the FIR and complaint along with Aadhar Cards.

9. In the Report of the I.O submitted by the learned PP, wherein it is stated about completion of seizure mahazar of the sand from the spot and that the investigation to be still pending, the accused to be traced and enquired about illegal transportation of sand, the

statements of the witnesses are yet to be recorded and the documents from Mines and Geological Department to be obtained, documents pertaining to the place of offence and panchanama are to be drawn, therefore there is possibility of absconding of the accused, destruction of the evidence and repetition of same offence to make unlawful gain.

10. In a case, **State of Rajasthan, Jaipur Vs Balachand @ Baiiy, in Crl.Misc. Petition No.1424 - 1425 of 1977, the Hon'ble Supreme Court** in its Judgment dated 20.09.1977 has held that, "The basic rule is bail, not jail, except-where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the court. When considering the question of bail, the gravity of the offence involved and the heinousness of the crime which are likely to induce the petitioner to avoid the course of justice must weigh with the court."

In this regard, it is necessary to impose conditions in accordance with terms of the Circular of the Hon'ble High Court of Karnataka dated 30.6.2025 vide HCC No.48/2012 in order to secure the accused.

11. In view of the name of the petitioner appearing in the FIR as accused, and also seizure of the sand from the spot, there are reasonable grounds made out that the petitioner is apprehending arrest by the Respondent Police in the aforesaid Crime, for grant of anticipatory bail as required under Sec.482 of BNS. Further, in the instant case, when the seizure panchanama is already completed about seizure of the incriminating articles along with sand, and the PF might have been reported before the concerned Magistrate, it means that the major part of the investigation has been completed. Therefore, arrest of the petitioner would not be required. Though there is allegation that the act of the petitioner has caused loss to the State Exchequer, whether such allegations made in the complaint are true or not, would be decided in due course of time on completion of the trial. The said offences are not punishable with death or imprisonment for life.

12. Based on the documents placed before the court, and in view of the principle laid down in the aforesaid decisions, the apprehension of learned P.P about causing impediment to the fair investigation and trial of the case, could be over come by imposing stringent

conditions, hence the point for consideration is answered in the Affirmative.

13. **Point No.2** :- In view of the above finding on point No.1, I proceed to pass the following :-

O R D E R

The petition filed by petitioner / accused under Sec.482 of BNS is hereby allowed.

The petitioner be enlarged on pre-arrest bail in the event of his arrest in Crime No.35/2026 of Respondent Police Station, for the offences punishable under Sec.303(2) of BNS 2023, on executing a personal bond for a sum of ₹50,000/- (Fifty Thousand Rupees only) with one surety for the like sum each, subject to following conditions:-

1. The petitioner shall surrender before the Investigating Officer within 15 days from the date of this order. In the event of his appearance, the Investigating Officer is at liberty to interrogate him in accordance with law.

2. The petitioner shall appear before the concerned police station as and when directed by the Investigating Officer in writing and co-operate with the Investigation Officer for further investigation.
3. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.
4. The petitioner shall not threaten the prosecution witnesses directly or indirectly.
5. The petitioner shall move application for regular bail before the concerned court within one month from the date of this order.
6. The petitioner shall be regular in attending the court on all the dates of hearing.
7. The petitioner shall not indulge in similar offences in future.
8. The petitioner shall attend/appear before the Investigating Officer/ SHO of the Respondent Police Station on the 2nd Sunday of every month, for a period of 3 months or till filing of the Charge Sheet, whichever is earlier.
9. The petitioner shall provide Mobile Number, WhatsApp Number, and E-Mail ID, and to intimate the court about the changes if any.

10. The petitioner shall produce self attested copy of the Aadhaar Card, in support of proof of the residential address.

If the petitioner commits breach of any of the above conditions, the prosecution is at liberty to approach the court for cancellation of bail.

Inform the same to the concerned Police Station, accordingly.

(Dictated to Stenographer Gr.1, transcript corrected, signed and pronounced by me in the open Court on this the 13th day of March, 2026.)

(Vela.D.K)
**Prl. District & Sessions Judge,
Davanagere.**